

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

MONIQUE SMITH,

Plaintiff,

v.

C. RATLEDGE,

Defendant.

CASE NO. 7:16CV00111

Memorandum Opinion

JUDGE NORMAN K. MOON

Monique Smith, a Virginia inmate proceeding *pro se*, filed a civil action pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), against Warden C. Ratledge of the United States Penitentiary in Lee County, Virginia. Having reviewed the complaint, I conclude that Smith fails to state a claim against Ratledge and, therefore, I will dismiss his complaint without prejudice pursuant to 28 U.S.C. § 1915A(b)(1).

To state a cause of action under *Bivens*, a plaintiff must allege facts indicating that he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of federal law. *Bivens*, 403 U.S. at 397; *West v. Atkins*, 487 U.S. 42 (1988); *see also Harlow v. Fitzgerald*, 457 U.S. 800, 814–20 n.30 (1982) (finding that case law involving 42 U.S.C. § 1983 claims is applicable in *Bivens* actions, and vice versa). Inasmuch as Smith alleges no facts against, or conduct committed by, defendant Ratledge, I conclude that Smith has failed to state a claim against Ratledge. *See, e.g., Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (noting a plaintiff’s basis for relief “requires more than labels and conclusions . . .”). Accordingly, I will dismiss Smith’s complaint without prejudice pursuant to 28 U.S.C. § 1915A(b)(1).

Entered this 9th day of May, 2016.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE